



Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2005061

Variance

Hearing Date:

August 17, 2005

Agenda Item:

7

Supervisory District:

3

*Indicates revisions or new information since the May 11, 2005 hearing date.

Applicant/Owner

Leroy E. Johnston

Request:

Variance to:

Permit a proposed hillside disturbance of 25.7% where 15% is the maximum hillside disturbance allowed

This variance is requested from the following Zoning Ordinance Section(s):

Section 1201, Article 1201.6.1.1

Site Location:

10th Street and Saddle Mountain Road (Desert Hills area)

Site Size:

44,413 square feet (1.0 acres)

Existing Zoning:

Rural-43

Current Use:

Vacant

Citizen

Support/Opposition:

Four E-mails of opposition had been received at the time this report was written. No support is known.

Staff

Recommendation:

Approve with stipulations

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Vacant
North: Vacant/single-family residence
South: Single-family residence
East: Vacant
West: Single-family residence

Background:

3. **March 19, 1997:** Parent parcel 211-71-008 was split to create two new parcels; 008A and 008B.
4. **June 5, 2002:** Parcel 211-71-008B was split to create two parcels; 008C and 008D.
5. **August 4, 2004:** Parcels 211-71-008C and 211-71-008D were split and recombined to create two parcels; 008E and 008F.
6. **February 11, 2005:** The applicant took title to the subject property via a Warranty Deed recorded under docket number **050177527**.
7. **April 5, 2005:** The applicant filed for building permit **B200504434** for a single family residence.
8. **April 5, 2005:** The applicant applied for this variance request.
- *9. **May 11, 2005:** The Board of Adjustment denied this request.
- *10. **June 16, 2005:** Staff met with the applicant and their engineer to discuss omissions in the site plan related to the placement of the proposed residence.
- *11. **July 13, 2005:** The Board of Adjustment agreed to rehear this case to allow the applicant to present new information.

Findings:

12. **Maricopa County Department of Transportation:** No response at the time this report was written.
13. **Flood Control District:** No objection to this request (see attached memo).
14. **Environmental Services Department:** No objection to the request, recommends approval (see attached memo).
15. **New River/Desert Hills Community Association:** The NR/DHCA recommended denial on April 28, 2005 (see attached letter).

Site Analysis:

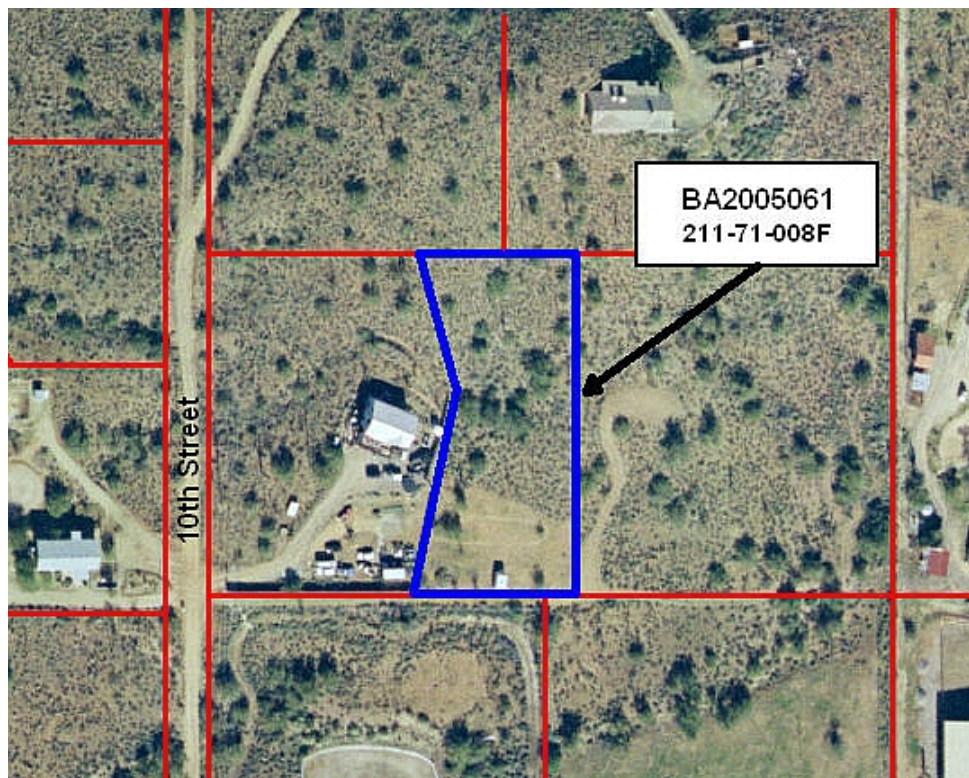
16. The subject site is an irregularly shaped lot measuring approximately 150 feet in width and 330 feet in depth for a total area of 44,413-square feet (1.0 acre). From the southwestern corner of the site, the western boundary shifts first to the east and then back to the west with the thinnest portion of the site, approximately 116 feet wide, located at the northern edge of the proposed residence. Access to the site is from 10th Street via a graded easement found on the southern edge of the property.
- *17. More than 60% of the subject site is considered to be hillside roughly beginning south of the central portion of the site and extending upward to the northern boundary. The hillside area has a grade of approximately 22%. The southern portion of the site is relatively clear of vegetation and has a less severe slope. Currently, there are no structures on the site. The site has been staked to show the approximate location of the proposed structure. The applicant has applied for permits to construct an approximately 3,443 square foot, two story, single-family residence on the subject site with the proposed structure lying entirely in the designated hillside area.
18. The site is located in an area of scattered single family homes being developed north of Phoenix in the Desert Hills area. The easement that crosses the southern edge of the site is unimproved and roughly graded as is 10th Street to the west of the site. The subject site is vacant and the undisturbed areas have typical Upper Sonoran desert vegetation. There are mature Palo Verde trees and Saguaro cactus scattered about the northern, hillside portion of the site with a small wash that runs from below the northeast corner to roughly the center of the western boundary.

19. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	144-feet
Rear Yard Setback	40-feet	122-feet
Side Yard Setback	30-feet	30-feet
Street Side Setback	20-feet	n/a
Maximum Height	30-feet/2 stories	28.9-feet/2 stories
Minimum Lot Area	43,560-sq. ft.	44,413-sq. ft.
Minimum Lot Width	145-feet	150-feet
Lot Coverage	15%	5.5% **
Hillside Disturbance	15%	25.7%

*Standards indicated in **bold** do not meet minimum base zoning standards.

** Based on an estimated 2,450 square foot footprint.



Aerial view of subject property and surrounding area

Land Use Analysis:

20. The surrounding area consists of rolling hillside terrain broken up by desert washes with significant washes north of the subject site. Nearby development is rural residential in nature with scattered single-family residences on large lots. Much of the development

in the area is occurring following lot splitting and the parcels and homes are irregular in both size and shape.

21. There are few paved roadways and access to homes in the area is primarily by graded dirt roads. 10th Street is located approximately 200 feet to the west and has varying width and roughness. The roadway on the southern boundary of the subject site is a 15 foot ingress/egress easement and provides access to homes and properties to the east of 10th Street. Saddle Mountain Road, a graded road located 1,000 feet to the south, provides access to New River Road to the west.
22. Staff found two similar variance cases in the surrounding area.
 - Case **BA2005015** was a variance case to permit a proposed hillside disturbance of 24.2% where 15% is the maximum hillside disturbance allowed. This variance case was approved by the Board of Adjustment. This property is located approximately one mile northwest of the subject property at 41921 North 3rd Street.
 - Case **BA2001049** was for variance requests to permit: 1) An existing hillside disturbance of 21.83% where 15% is the maximum allowed, 2) the width of the disturbance band adjacent to a proposed driveway to exist at 37' where 6' is the maximum width allowed, 3) the width of a proposed driveway on a hillside lot to exist at 16' where 14' is the maximum width allowed, and 4) a portion of a proposed driveway to exist on 100% fill where 33% fill is the maximum allowed. These variance requests were denied by the Board of Adjustment. This property is located approximately ¼-mile northeast of the subject property at 40816 North 12th Street.

Plan Analysis:

23. This is a request to permit a proposed hillside disturbance of 25.7% where 15% is the maximum hillside disturbance allowed in the Rural-43 zoning district. The applicant submitted for this variance and for building permits for the proposed residence concurrently. The existing hillside area on the subject site is 26,467-square feet or approximately 60% of the total site area. The total proposed net disturbance is 6,822 square feet.
24. The applicant states in the Supplemental Questionnaire that the "location of the septic system requires that the dwelling be located above the 15% slope line". As shown in the site plan, the septic tank lies more than 20 feet south of the proposed residence and the disposal field is approximately 40 feet further south. From the edge of the proposed disposal field to the front yard setback is approximately 30 more feet. The required septic tank setback from any building (including porches, steps, breezeways, roofed patios, covered walks and driveways, and similar structures and appurtenances) is ten feet and five feet from any easement. The disposal field setback is likewise ten feet from a building (as described above) and five feet from an easement. Additionally,

there is a requirement for both the septic tank and disposal field to be setback 100 feet from a water supply well (public or private). The proposed well site is located northwest of the proposed house, more than 100 feet from the proposed septic tank, and approximately 125 feet from the proposed drainage field. The required setbacks from a driveway or easement for a septic tank and disposal field are both five feet.

25. There are significant topographical hardships (hillside) associated with this site and the applicant is planning to build knowing those hardships. The applicant is proposing to build a house entirely in the area designated as hillside and that the disturbance to the hillside area will be 25.7%, more than ten percent greater than the required 15%. As shown in the submitted plans, a portion of the on-site wash would have to be filled in to accommodate the proposed house. 40% of the site lies outside the designated hillside area and encompasses nearly 18,000 square feet.
- *26. At the May 11, 2005 hearing, staff believed that even given the unusual lot configuration and hillside conditions on the subject site, there were alternatives available that would allow the applicant to build a residence without requiring a variance. Relocating the residence further to the south would significantly reduce or even eliminate the need for the requested variance. Staff further believed that granting this variance request in the proposed configuration would confer special privileges upon the applicant. As such, staff recommended denial of this variance request and the Board of Adjustment denied the proposed variance.
- *27. Staff met with the applicant and his engineer on June 16, 2005 to review information that was omitted from the original variance request submittal. The applicant's engineer had not included detailed information on the site plan for off-site wells, shown the required setbacks for those wells, and included the location of the on-site reserve septic disposal area. These factors directly contribute to the siting of the proposed single family residence within the area designated as hillside.
- *28. Plan revisions were submitted to staff on June 20, 2005 that clearly show the 100-foot setback radius for the on-site and off-site well on the adjacent property to the west of the subject site and the proposed placement of the reserve septic disposal area on the subject site. The need to place the proposed house in the area designated as hillside is better described based on this additional information. The original plans did not show the location of the reserve septic disposal area which, with the primary septic disposal area, further restricts the location of the proposed residence. Moving the house to the south by reducing the drive area will not serve to significantly reduce the overall hillside disturbance without sacrificing the area necessary for vehicle turnaround on the site.
- *29. There are a number of physical hardships associated with the site; the unusual lot configuration, the hillside conditions, a wash, on- and off-site wells, and the need for septic disposal. Based on the additional information provided to staff, the alternatives that were presented previously are not viable. Staff therefore recommends approval of this variance request.

Recommendation: (BA2005061)

- *30. Staff recommends **approval** of this variance request based on the following:
- There are hardships in the form of hillside areas, adjacent and on-site wells, septic location, and an on-site wash that hinder development of the site.
 - The relief requested is the minimum required necessary to provide the applicant with full use and enjoyment of the property.
 - This request does not conflict with the intent of the Zoning Ordinance.
- *31. Subject to the following stipulations:
- a) General compliance with the grading and drainage plan, titled "Johnston Property", stamped received June 21, 2005.
 - b) The applicant shall obtain all necessary permits within 120 days of Board approval.
- *32. If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

mjlw

Attachments: Case Map BA2005061
Zoning Map
Assessor Map
Improvement Plan (2 pages)
*Revised Grading and Drainage Plan (2 pages)
Elevations
Application
Supplemental Questionnaire
Flood Control District Memo
Environmental Services Memorandum
Photographs (3 pages)
Opposition E-mails (4 pages)
NR/DHCA denial letter
*Plan Revisions Letter